



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 15, 1996

Ms. Susan M. Cory
General Counsel
Texas Workers' Compensation Commission
Southfield Building, MS-4D
4000 South IH-35
Austin, Texas 78704-7491

OR96-1471

Dear Ms. Cory:

You ask whether certain information is subject to required public disclosure pursuant to chapter 552 of the Government Code. Your request was assigned ID# 100138.

The Texas Workers' Compensation Commission (the "commission") received a request for a copy of an internal investigation file relating to alleged employee misconduct. You ask whether the information requested is excepted from required public disclosure pursuant to section 552.101 of the Government Code.

Section 552.101 excepts from required public disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. You assert that the employee investigation file is confidential pursuant to section 402.092 of the Texas Labor Code. Section 402.092 provides:

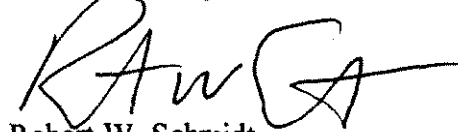
- (a) Information maintained in the investigation files of the commission is confidential and may not be disclosed except:
 - (1) in a criminal proceeding;
 - (2) in a hearing conducted by the commission;
 - (3) on a judicial determination of good cause; or
 - (4) to a governmental agency, political subdivision, or regulatory body if the disclosure is necessary or proper for the enforcement of the laws of this or another state or of the United States.

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- (d) For purposes of this section, "investigation file" means any information compiled or maintained by the commission with respect to a commission investigation authorized by law.
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This statute makes confidential the commission's investigation files concerning compliance with Texas workers' compensation laws. However, the commission's own investigation of an internal personnel matter is not an investigation into worker's compensation laws. See Open Records Letter Nos. 96-1125 (1996), 95-1508 (1995). Thus, section 402.092 does not make confidential these internal records. Because the commission has raised no other exceptions to disclosure, you must release the requested information.¹

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Robert W. Schmidt
Assistant Attorney General
Open Records Division

RWS/ch

Enclosures: Submitted documents

Ref: ID# 100138

¹Several documents reveal the home addresses and phone numbers of public employees. If these employees have elected under section 552.024 to keep this information confidential, the commission must withhold this information under section 552.117. Additionally, the commission states in its letter to this office that the internal investigation includes complaints relating to sexual harassment. The commission did not identify any information concerning sexual harassment, nor did this office locate any such information. We note, however, that the identity and other detailed information regarding victims and witnesses of sexual harassment is normally confidential under common-law privacy, and thus may not be disclosed. See *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.--El Paso 1992, writ denied).

cc: Ms. Cynthia Gonzalez
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Midland, Texas 79707
(w/o enclosures)